

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

ORIGINAL
ARNULFO RODRIGUEZ
(Petitioner)

v

UNITED STATES OF AMERICA
(Respondant)

§
§
§
§

Appeal: 4:18-cv-00876-O
Cr: 4:16-CR-00029-0(04)
H. Judge: REED O'CONNOR
USDJ

"MOTION TO COMPEL ATTORNEYS TO DELIVER ALL CONTENTS OF
CRIMINAL FILE TO DEFENDANT".

Comes now the Defendant/Petitioner Arnulfo Rodriguez, in the above styled and titled action proceeding Pro Se and In Forma Pauperis, and moves this Court to order to the Petitioner's former attorneys to compel them to deliver all contents of his criminal case file for use in collateral actions.

See Memorandum of Law, attached hereto.

Wherefore, Petitioner Arnulfo Rodriguez moves this Court for an order to compel attorneys to deliver all contents of his criminal case file.

This 27th day of December, 2018.

Respectfully submitted
Arnulfo Rodriguez
Arnulfo Rodriguez
Pro Se litigant.

1 of 1

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
DEC 31 2018
CLERK, U.S. DISTRICT COURT
By _____ Deputy _____

Case 4:18-cv-00876-O Document 10 Filed 12/31/18 Page 2 of 9 PageID 41
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
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ARNULFO RODRIGUEZ
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Appeal: 4:18-cv-00876-O
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Honorable Judge:
REED O'CONNOR USDJ

"MEMORANDUM OF LAW IN SUPPORT OF MOTION TO COMPEL ATTORNEYS
TO DELIVER ALL CONTENTS OF CRIMINAL FILE TO DEFENDANT".

F A C T S

I: Petitioner Arnulfo Rodriguez has already tried to obtain the aforementioned documentation with unfruitful results.

As the exhibits attached to this memorandum by the Petitioner will show, Petitioner's attorneys Mr. Robert Herrington and Mr. David D. Burns, both of them former advocates of the Petitioner has done little or nothing to return to the Petitioner copy of his entire criminal case file even when he has clearly expressed the crucial necessity of such documentation on his pursue for collateral actions on his criminal case. To illustrate his claim, Petitioner shows to the Court a letter with his last attempt made on August 21, 2018 to Mr. David Burns (exhibit A) requesting the aforementioned copies which was replied on August 23, 2018 (exhibit B) wherein Mr. Burns literally denies having any of the Petitioner records. Furthermore, Mr Burns direct the Petitioner to contact attorney Robert Herington with what the Petitioner interprets as an intention from Mr. Burns to make the Petitioner to obtain the documentation from Mr. Herringtons' office. It does confuse the Petitioner in a great degree since he do not understand how an attorney has not any kind of legal paperwork from one of his former clients eventhough when the laststep made in the Petitioners' case by the advocate therein an appeals work was done on March 12, 2018 (see exhibit C).

Meanwhile, within June, 2018 and August 22, 2018 the Petitioner was likewise trying to obtain the mentioned legal work from Mr Herrington, action that lead him to acquire copies of the Indictment, Judgment, and copy of a "Motion For Court-Appointed Counsel to Withdraw And To Be Relieved of the Obligation To File Petition For Writ Of Certiorari", accompanied with what the Petitioner considers is ~~not only unethical~~, but totally careless message to him with this words on it: "Mr. Rodriguez: Here you got the true copies of every documentation I have. Some other documents exist, but only on electronic form, which I don't have the access neither the obligation to recover for you, nor mail them. Courteously.", message wrote in Spanish language and apparently signed by Mr. Herrington. (Exhibit D)

Petitioner has begun to be concern in regards the timimg for response to the Honorable Court and how to obtain besides other significant documentation from the Court with the only purpose to be correct in his facts within his forthcoming submissions and pleadings. Moreover, Petitioner asserts that without the copies requested to his former lawyers, it will be a harsh task to meet for him and his attempts and actions may be mislead or misunderstood and taken as vague or non-meritorious by not containing sufficient information that could be found in said documentation.

Therefore, Petitioner claims to the Honorable Court grant his motion and compel his former attorneys to comply diligently with his duties on a professional and responsible way by delivering all contents of the Petitioners' Criminal file.

For this, Petitioner forever prays.

This 27th day of December, 2018.

Respectfully submitted.

Arnulfo Rodriguez
ARNULFO RODRIGUEZ N° 53753-177
BOP GILES W. DALBY C. F. (A1-27L)
805 NORTH AVENUE F
POST, TEXAS 79356

V

VERIFICATION

I have read the foregoing "Memorandum of Law In Support Of Motion to Compel Attorneys To Deliver All Contents Of Criminal File To Defendant". and hereby verify that the matters alleged herein are true, except as to matters alleged on information and belief, and as to those, I believe them to be true. I certify under the penalty of perjury that the foregoing is true and correct, Executed at Post, Texas on this December 27, 2018.

Arnulfo Rodriguez
ARNULFO RODRIGUEZ
PRO-SE LITIGANT

CERTIFICATE OF SERVICE

I certify under the penalty of perjury that the foregoing "Memorandum of Law In Support Of Motion To Compel Attorneys To Deliver All Contents Of Criminal File To Defendant" was placed into the prison's mail system, postage pre-paid, for service upon this Honorable Court via United States Mail system on December 27, 2018, to the United States District Court Clerk, for the Northern District of Texas, Fort Worth Division at 501 W. 10th Street, Room 310, Fort Worth, Texas 76102, Movant ask this courts' Clerk to serve all other interest parties via electronic notification.

Arnulfo Rodriguez
ARNULFO RODRIGUEZ N° 53753-177
BOP GILES W. DALBY C.F. (A1-27L)
805 NORTH AVENUE F
POST, TEXAS 79356

ARNULFO RODRIGUEZ
REG, N° 53753-177
GILES W. DALBY C.F. (A1-27L)
805 NORTH AVENUE F
POST, TEXAS 79356

EXHIBIT "A"

DANNY D. BURNS, ATL
115 NORTH HENDERSON STREET
FORT WORTH, TEXAS 76102

RE: APPEAL 17-8049

August 21, 2018.

Dear Mr. Burns:

I am writing to you again on another attempt to obtain copies of the entire file of my case. On past July 31, 2018 I had sent a letter making the same request but unfortunately I have no response from you yet. Basically this is my third attempt to obtain the aforementioned documentation besides copy of the last docket sheet from my criminal file.

I am working on the pursue of filing for a post conviction collateral relief, reason why the obtainment of such documents is essential to that finality. I am in the belief that those copies I am requesting for, will be very helpful to the purpose of being correct with the facts and narrative when I prepare the forthcoming motion.

Previously, I tried to obtain such documentation directly from the court, but I have been instructed by the court's clerk to obtained it from your office, so please provide me with it to keep trying to work on my case. Please don't forget to send to me copies of the payments I have made to you since this time I will be proceeding as an Indigent and I need to probe that I have no more money and I need to obtain a counsel appointment. Thank you in advance for your assistance and prompt response.


Arnulfo Rodriguez
Pro-Se

BOARD CERTIFIED CRIMINAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

Danny D. Burns
Attorney at Law



115 N. Henderson Street Fort Worth, Texas 76102 817-870-1544 Fax: 817-870-1589

August 23, 2018

Arnulfo Rodriguez, #53753-177
Giles W. Dalby C.F. (A1-27L)
Correctional Institution
805 North Ave F
Post, TX 79356

RE: your letter of today

Dear Mr. Rodriguez;

I tried to help you out. The Supreme Court did not see it that way. I do not have your records. You can contact your court appointed lawyer and I sent you this day a copy of the docket sheet from the District Court. It lists your lawyer. You have more records of yours than I do. You will need to get a hold of your trial and/of your appellate lawyer who abandoned your case.

I cannot help you get "all your records". Good luck. This is the last letter to you.

Sincerely,

A handwritten signature in cursive ink that reads "Danny D. Burns". Below the signature, the name is printed in a smaller, sans-serif font.

DANNY D. BURNS

ENC.

10/10/2017 MOTION filed by Appellant Mr. Arnulfo Rodriguez for leave to file petition for rehearing out of time. [8611772-2] Date of service: 10/10/2017. Document is insufficient for the following reasons: The proposed petition for rehearing attached to the motion is insufficient as it doesn't have the required opinion attached, pursuant to Fifth Circuit Rule 40.1. Sufficient Mtn/Resp/Reply due on 10/17/2017 for Appellant Arnulfo Rodriguez. [16-10881] (SEP) [Entered: 10/12/2017 08:23 AM]

10/17/2017 DOCUMENT RECEIVED – NO ACTION TAKEN. No action will be taken at this time on the motion for leave to file petition for rehearing out of time received from Appellant Mr. Arnulfo Rodriguez because a motion for leave to file petition for rehearing out of time has already been filed on our docket [16-10881] (RSM) [Entered: 10/17/2017 09:08 AM]

10/17/2017 The motion to file rehearing out of time filed by Appellant Mr. Arnulfo Rodriguez in 16-10881 [8611772-2] has been made sufficient. Sufficient Mtn/Resp/Rpl deadline satisfied. [16-10881] (RSM) [Entered: 10/17/2017 09:15 AM]

10/23/2017 COURT ORDER granting appellant's motion to recall the mandate filed by Appellant Mr. Arnulfo Rodriguez [8610671-2] Judge(s): PEH, JEG and SAH. [16-10881] (CMB) [Entered: 10/23/2017 02:31 PM]

11/20/2017 COURT ORDER granting motion to file rehearing out of time filed by Appellant Mr. Arnulfo Rodriguez [8611772-2] Judge(s): PEH. [16-10881] (NFD) [Entered: 11/20/2017 02:46 PM]

11/20/2017 PETITION filed by Appellant Mr. Arnulfo Rodriguez for rehearing [8643010-2]. Date of Service: 10/03/2017 [16-10881] (NFD) [Entered: 11/20/2017 03:02 PM]

12/05/2017 COURT ORDER denying petition for rehearing filed by Appellant Mr. Arnulfo Rodriguez [8643010-2] Mandate issue date is 12/13/2017 Judge(s): PEH, JEG and SAH. [16-10881] (NFD) [Entered: 12/05/2017 01:04 PM]

12/13/2017 MANDATE ISSUED. Mandate issue date satisfied. [16-10881] (NFD) [Entered: 12/13/2017 07:51 AM]

03/12/2018 SUPREME COURT NOTICE that petition for writ of certiorari [8723933-2] was filed by Appellant Mr. Arnulfo Rodriguez on 03/05/2018. Supreme Court Number: 17-8049. [16-10881] (SMC) [Entered: 03/12/2018 02:27 PM]

04/17/2018 SUPREME COURT ORDER received denying petition for writ of certiorari filed by Appellant Mr. Arnulfo Rodriguez in 16-10881 on 04/16/2018. [8752892-1] [16-10881] (CAV) [Entered: 04/17/2018 12:25 PM]

EXHIBIT "C"

EXHIBIT "D"

9/18/18

Sr. Rodriguez,
Aqui tiene las copias
originales de todos los documentos que
tengo. Otros documentos existen para
descargarlos en forma electronica que
no tengo manera ni disponibilidad de
recuperarlos o mandarte.

Atte,

CLERK OF DISTRICT COURT
NORTHERN DIST. OF TX
FORT WORTH DIVISION
RECEIVED

2018 DEC 31 PM 3:13

DEPUTY CLERK _____

ARTURO RODRIGUEZ REC. # 53153-177
TOP GILES W. DALBY C. F. (A1-27L)
865 NORTH AVENUE F
POST, TEXAS 79355

UNITED STATES DISTRICT COURT, CLERK
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION
501 W. 10TH STREET, ROOM 310
FORT WORTH, TEXAS 76102

LAWRENCE T. HORN
FRI 28 DEC 2018 PM

